



**OPEN THE LEGISLATIVE HEARING: CONDITIONAL ZONING APPLICATION FOR BARBEE CHAPEL APARTMENTS (PROJECT #CZD-22-3)**

**SUMMARY REPORT**

TOWN OF CHAPEL HILL PLANNING DEPARTMENT  
 Britany Waddell, Director  
 Judy Johnson, Assistant Director  
 Anya Grahn-Federmack, Principal Planner  
 Tas Lagoo, Senior Planner

PROPERTY ADDRESS	MEETING DATE	APPLICANT
5101 Barbee Chapel Road	April 19, 2023	McAdams on behalf of Toll Brothers Apartment Living (contract purchaser) and Don Pendergraft et. al. (property owners)

**STAFF RECOMMENDATION**

That the Council 1) open the legislative hearing, 2) receive and provide comments on the Conditional Zoning Ordinance, and 3) continue the hearing to May 24, 2023. Please see the attached Advisory Board recommendations.

**ZONING**

*Existing:* Residential-2 (R-2)

*Proposed:* Residential-6-Conditional Zoning District (R-6-CZD)

**PROCESS**

Conditional Zoning is a legislative process that allows Town Council to review the rezoning application for consistency with Comprehensive Plan and establish standards that address impacts on surrounding properties.

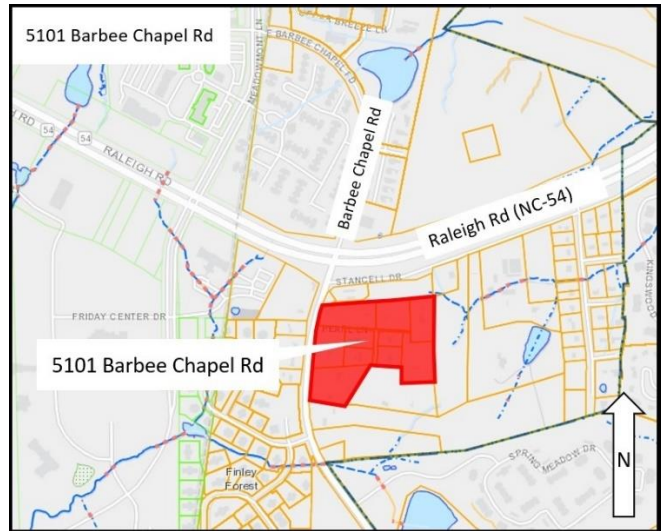
**PROJECT OVERVIEW**

This proposal includes a multifamily development on approximately 10.5 acres of land consisting of:

- Approximately 350 residential units (three buildings of multifamily flats and four buildings of townhomes)
- 31 affordable units
- 420,000 sq. ft. of floor area
- Parking in surface lots and townhome garages

The Transportation Impact Analysis describes necessary improvements for one limited access driveway and one full access driveway on Barbee Chapel Road.

**PROJECT LOCATION**



**DECISION POINTS**

Modifications to Regulations: The applicant is requesting modifications for the following:

- Increase the maximum density;
- Increase the maximum floor area ratio;
- Increase the maximum setback and core building heights;
- Decrease the solar setback;
- Modify buffer widths and types.

**ATTACHMENTS**

1. Technical Report & Project Fact Sheet
2. Draft Staff Presentation
3. Draft Resolution A, Resolution of Consistency and Reasonableness
4. Draft Ordinance A (Approving the Application)
5. Draft Resolution B (Denying the Application)
6. Advisory Board Recommendations
7. Modifications to Regulations (Applicant Request)
8. Applicant Materials



# TECHNICAL REPORT

## PROPOSED ZONING

The application proposes applying a Residential-6-Conditional Zoning District (R-6-CZD) to the project site.

The intent of Residential-6-Conditional Zoning District (R-6-CZD) is "to provide for residential development of appropriate intensities consonant with the suitability of land, availability of public services, accessibility to major activity centers and transportation systems, and compatibility with surrounding development." (Land Use Management Ordinance (LUMO) Section 3.3.9)

The applicant has submitted a Conditional Zoning application, which allows review of the development proposal in conjunction with the rezoning, and which allows site-specific standards to be applied as conditions through a legislative process.

Conditions are typically used to:

- Address conformance of the development with Town regulations and adopted plans.
- Modify use, intensity, and development standards to be more restrictive when addressing impacts reasonably expected to be generated by development.
- Modify intensity and development standards to be less restrictive when accommodating the applicant's proposed site plan (Modifications to Regulations).

## SITE CONTEXT

Staff has identified the following physical and regulatory characteristics of the land which are relevant to consideration of a Zoning Atlas Amendment:

- The site consists of ten single-family lots and two private streets on approximately 10.5 acres.
- The site fronts on Barbee Chapel Road, a NCDOT-maintained collector road.
- The site is roughly a half-mile from the Friday Center and associated park & ride.
- The site is adjacent to the following zoning districts and uses:
  - North: Gas station and car wash in a Neighborhood Commercial (NC) Zoning District.
  - East and South: Several single-family homes and commercial properties in a Mixed-Use Village Conditional Zoning District (MU-V-CZD). All adjacent properties to the east and south are owned by NR Hillmont Property Owner LP and are subject to an active conditional zoning application for a multifamily and townhome development.
  - West: Several single-family homes in a Residential-2 (R-2) zoning district and the Finley Forest Condominiums in a Residential-4 (R-4) zoning district.
- The site contains no hydrological features. An intermittent stream is located off-site to the northeast.

- The site is in the Jordan Lake Watershed Protection District.
- The site is mostly flat.

## PROPOSED MODIFICATIONS TO REGULATIONS

**1) Section 3.8.2: Dimensional Regulations.** The applicant proposes modifications to the following dimensional regulations:

Dimensional Regulation	Required	Proposed
Maximum Density	15 dwelling units per acre	31 dwelling units per acre
Maximum Floor Area Ratio	0.303	0.840
Maximum Building Setback Height	39 feet	65 feet
Maximum Building Core Height	60 feet	65 feet
Minimum Solar Setback	8 feet	6 feet

*Staff Comment:* In general, it is preferable to propose zoning districts that have a defined intent that is consistent with the proposed development. Dimensional regulations can then be modified to allow development that is consistent with the guidance of the Future Land Use Map (FLUM). Town staff support the proposed modifications because the proposed residential development is consistent with the FLUM, but the LUMO does not include any residential zoning districts with dimensional regulations that fully implement the FLUM’s guidance for this portion of the NC-54 Focus Area.

Staff has therefore advised the applicant to propose a residential zoning district and request modified dimensional regulations that will allow the proposed development to implement the FLUM. Additional justification is provided in the applicant’s statement on Modifications to Regulations.

**2) Section 5.6: Landscaping, screening, and buffering: Required buffers.** The table below shows the buffer required and proposed buffers for this development.

Location	Required	Proposed (Buffer Types TBD)
North	Type C – 20 ft. Internal 4 large trees, 8 small trees, and 30 shrubs per 100 linear feet	6 ft. Modified Buffer 2 large trees, 2 small trees, and 40 shrubs per 100 linear feet
South	Type B – 10 ft. Internal 4 large trees, 7 small trees, and 12 shrubs per 100 linear feet	4 ft. – 10 ft. Modified Buffer 2 large trees, 2 small trees, and 40 shrubs per 100 linear feet
East	Type B – 10 ft. Internal 4 large trees, 7 small trees, and 12 shrubs per 100 linear feet	8 ft. – 10 ft. Modified Buffer 3 large trees, 4 small trees, and 40 shrubs per 100 linear feet
West	Type B – 15 ft. External 6 large trees, 8 small trees, and 15 shrubs per 100 linear feet	10 ft. – 15 ft. Modified Buffer 3 large trees, 6 small trees, and 50 shrubs per 100 linear feet

*Staff Comment:* Landscape buffers are intended to separate a proposed development from adjacent major streets and different adjacent land uses or zoning designations to minimize potential nuisances like noise, dust, odor, litter, and glare of lights. Buffers are also intended to reduce the visual impact of unsightly aspects of adjacent development, provide for the separation of spaces, and to establish a sense of privacy.

Staff are supportive of these modifications because they will enable a more cohesive urban form and transition the anticipated development to the east and south of the project site while providing sufficient separation from uses to the north and west.

Additional justification is provided in the applicant’s statement on Modifications to Regulations.

**Council Findings and Public Purpose:** The Council has the ability to modify the regulations according to Section 4.4.7 of the LUMO. Staff believes that the Council could modify the regulations if it makes a finding in this particular case that public purposes are satisfied to an equivalent or greater degree. If the Council chooses to deny a request for modifications to regulations, the developer’s alternative is to revise the proposal to comply with the regulations.

## CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

North Carolina General Statute 160D-605 requires the Town Council to consider a statement of Plan consistency when reviewing any Zoning Atlas Amendment. Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)<sup>1</sup>, the standards of the [Land Use Management Ordinance](#)<sup>2</sup>, and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)<sup>3</sup> and provides the following evaluation of consistency for the Barbee Chapel Apartments:

	Description of Plan Element	Staff Evaluation
<b>Future Land Use Map (FLUM)</b>	<ul style="list-style-type: none"> <li>• <b>Focus Area:</b> NC-54, Sub-Area A</li> <li>• Designates the site for multi-story, mixed-use buildings with smaller multi-family buildings near residential frontages.</li> <li>• Encourages greater pedestrian and cyclist-friendly routes along tree-lined activated street frontages and discourages parking along streetscapes.</li> <li>• Encourages multimodal connections and cross-connectivity between sites to accommodate pedestrians, bicycles, and transit where appropriate.</li> </ul>	<p>The proposed rezoning is generally consistent with the character envisioned by the FLUM as the proposal emphasizes providing multifamily residential.</p> <p>The applicant has proposed two apartment buildings along Barbee Chapel Road, locating most of the parking areas away from the road.</p> <p>The façade design of the new multifamily buildings will need to engage with the street and encourage activity along the street frontage to comply with the FLUM. The significant amount of surface parking surrounding the multifamily</p>

<sup>1</sup> <http://www.townofchapelhill.org/home/showdocument?id=15001>

<sup>2</sup> [https://www.municode.com/library/#!/nc/chapel\\_hill/codes/code\\_of\\_ordinances?nodeId=CO\\_APXALOUSMA](https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALOUSMA)

<sup>3</sup> <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

	<ul style="list-style-type: none"> <li>Seeks mixed-income housing near transit, height and density transitions between new and existing development, and buffered protections between new development and lower intensity development and single-family neighborhoods.</li> </ul>	<p>buildings may make it difficult to activate street frontages.</p> <p>Adding density to this area will support future transit stops and routes, along with pedestrian and bicycle travel.</p>
<b>Building Height</b>	Up to 6 stories in Sub-Area A, each story measuring approximately 12 feet in height (About 72 ft. tall building)	Applicant proposes buildings measuring 3, 5, and 6 stories in height, with a maximum height of 55 ft.
<b>Mobility And Connectivity</b>	<ul style="list-style-type: none"> <li>A Bike/Ped Intersection Improvement is recommended at the intersection of NC 54 and Barbee Chapel Road</li> <li>New multi-modal paths on both sides of NC 54 are emphasized.</li> </ul>	The application proposes a multi-modal path along its Barbee Chapel Road frontage that may extend north to NC 54 and connect with improvements proposed in the plan.
<b>Climate Action and Response</b>	<p>To reduce greenhouse gas (GHG) emissions and Vehicle Miles Traveled (VMT), the plan recommends:</p> <ul style="list-style-type: none"> <li>Walkable, bikeable, transit-served neighborhoods.</li> <li>Higher density development and connectivity.</li> <li>Better connectivity for all transportation modes.</li> <li>Expanded transit availability and connectivity, wherever possible.</li> </ul>	<p>The site offers an opportunity for infill development next to an existing neighborhood, with access to transit stops within walking distance along NC 54 and at the Friday Center.</p> <p>The developer also proposes a new multi-modal path that could connect to future adjacent developments and multimodal routes along NC 54.</p>
<b>Chapel Hill 2020 Goals</b>	<p>Opportunities for this application to support goals of Chapel Hill 2020 include:</p> <ul style="list-style-type: none"> <li>Providing a range of housing options—apartments and townhouse rentals - for current and future residents (<i>A Place for Everyone.3</i>)</li> <li>Promoting a safe, vibrant, and connected community by offering a segment of multimodal path (<i>Community Prosperity and Engagement.3</i>). Further, the site is within walking distance to existing bus stops at the Finley Forest Condominiums and Friday Center, as well as regional routes along NC 54 (<i>Getting Around.3</i>). Connections to existing transit lines as well the proposed multi-modal path supports a transportation system that accommodates transportation needs and demands while mitigating congestion and promoting air quality, sustainability, and energy conservation (<i>Getting Around.6</i>)</li> <li>The project is adjacent to existing single- and multi-family development, contributing to a range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill’s character for residents, visitors, and students (<i>Good Places New Spaces.5</i>). Further, the proposal provides higher density housing development that brings opportunity to strengthen the community, social equity, economic prosperity, and</li> </ul>	

	<p>natural environment by providing a range of housing options for different income levels and life stages. (<i>Good Places New Spaces.8</i>).</p> <ul style="list-style-type: none"> <li>• The proposal seeks to reduce vehicular dependency by incorporating a multimodal path along its street frontage. When connected with future development on adjacent properties this segment could provide residents greater pedestrian and bike access to destinations along NC 54. This supports the Parks Comprehensive Plan and the Greenways Master Plan by providing recreation opportunities and ensuring safe pedestrian and bicycle connections (<i>Nurturing Our Community.4</i>)</li> <li>• The site offers access to the S and G routes that provide direct connections to UNC via transit. This supports the Town’s goal of housing for Town, University, and the Health Care System employees that encourages them to reside in the community (<i>Town and Gown Collaboration.4</i>)</li> </ul>
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## **REASONABLENESS OF THE ZONING ATLAS AMENDMENT**

Reasonableness is determined by comparing the scale of permissible development under both the proposed and existing zoning, and by considering characteristics of the site and its surroundings. North Carolina General Statute 160D-605 requires the Town Council to consider a statement of reasonableness when reviewing any Zoning Atlas Amendment.

The factors listed below the applicant’s proposed zoning district and overall proposed use program. Specific characteristics of the development proposal, compliance with regulations, and appropriate conditions to address potential impacts of the development are evaluated elsewhere.

### **Supporting Factors**

- The proposed zoning is consistent with the Future Land Use Map character for the Focus Area, provided that zoning conditions are applied to ensure a compatible density.
- Rezoning to accommodate redevelopment may be considered reasonable.
- The proposed zoning allows only residential uses, which is consistent with other existing residential uses in the surrounding area.
- Provision of affordable housing in this location aligns with multiple themes of Chapel Hill 2020.
- The site is located within walking distance of the Friday Center and Meadowmont.
- Zoning conditions provide an opportunity to limit intensity and to establish standards that address any impacts on surrounding properties.

### **Other Considerations**

- The proposed change in zoning district, including floor area proposed in the application, would allow roughly 9 times the amount of currently permissible development.
- The FLUM anticipates future transit service connecting existing development at Glen Lennox and Meadowmont as well as future transit-oriented, higher density development. Transit has not yet been improved along NC 54. This development

proposes to increase the number of residents along this road and increase demand for transit.

- Further analysis and/or zoning conditions may be needed to determine whether adequate pedestrian connectivity, vehicular access, and transit service are in place to support the proposed zoning.

## FINDINGS OF FACT

Staff provides the following evaluation of the application under the three Findings of Fact identified in LUMO Section 4.4. LUMO states that the Zoning Atlas shall not be amended unless at least one of the Findings are made.

<b>FINDING #1:</b> The proposed zoning amendment is necessary to correct a manifest error.	
<b>Arguments</b>	To date, no arguments in support or in opposition have been submitted or identified by staff.
<b>Staff Evaluation</b>	There appears to be no manifest error in the Town’s Zoning Atlas.
<b>FINDING #2:</b> The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.	
<b>Arguments</b>	Staff notes that the adjacent property is under consideration for a multi-family housing development.  To date, no arguments in opposition have been submitted or identified by staff.
<b>Staff Evaluation</b>	The Council could make the finding that the proposed zoning amendment is necessary because of changing conditions along the NC 54 corridor.
<b>FINDING #3:</b> The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.	
<b>Arguments</b>	Staff notes that the Conditional Zoning application could contribute to the purposes of the Comprehensive Plan through the following: <ul style="list-style-type: none"> <li>• Promoting the Focus Area Character for the NC 54 Focus Area as described in the Future Land Use Map.</li> <li>• Facilitating development that implements FLUM guidance for use and height in the Focus Area.</li> <li>• Supporting goals of Chapel Hill 2020 including <i>A Place for Everyone, Community Prosperity and Engagement, Getting Around, Good Places-New Spaces, Getting Around, and Town &amp; Gown Collaboration.</i></li> </ul> To date, no arguments in opposition have been submitted or identified by staff.
<b>Staff Evaluation</b>	The Council could make the finding that the proposed zoning amendment is necessary to achieve the purposes of the Comprehensive Plan.

Further information may be presented for the Council’s consideration as part of the legislative hearing process. All information submitted at the legislative hearing will be included in the record of the hearing.



# PROJECT FACT SHEET







## Project Details


Site Description	
<b>Project Name</b>	Barbee Chapel Apartments
<b>Address</b>	5101 Barbee Chapel Road
<b>Property Size (NLA)</b>	455,841 sq. ft. (10.5 acres)
<b>Gross Land Area (GLA)</b>	501,425 sq. ft. (11.5 acres)
<b>Durham County Parcel Identifier Numbers</b>	9798-72-75-8083; 9798-72-95-9660; 9798-72-97-2169; 9798-82-25-0578; 9798-82-27-2292; 9798-82-34-8161; 9798-82-46-2809; 9798-72-82-2595; 9798-82-24-0401; 9798-72-94-8347; and 9798-82-15-1550
<b>Existing Zoning</b>	Residential-2 (R-2)
<b>Proposed Zoning</b>	Residential-6 CZD (R-6-CZD)

## Site Development Standards


Topic	Comment	Status			
<b>Development Intensity</b>					
<b>Use (Sec. 3.7)</b>	<i>Proposed Use:</i> Multifamily dwelling units, over 7 units; Single-family dwelling units (townhomes)				
<b>Inclusionary Zoning Ordinance (Sec. 3.10)</b>	Voluntary – Rental housing proposed <i>Proposed:</i> 31 affordable apartments (9.7% of market-rate units)	<b>NA</b>			
<b>Density (Sec. 3.8)</b>	<i>Permitted:</i> 15 units per acre maximum <i>Proposed:</i> 31 units per acre	<b>M</b>			
<b>Dimensional Standards (Sec. 3.8)</b>	<i>Setback height:</i> 39 ft. maximum <i>Proposed:</i> 65 ft. maximum  <i>Core height:</i> 60 ft. maximum <i>Proposed:</i> 65 ft. maximum  <i>Setbacks:</i> 8 ft. solar, 20 ft. street, 6 ft. interior – all minimums <i>Proposed:</i> 6 ft. solar, other setbacks comply	<b>M</b>			
<b>Floor area (Sec. 3.8)</b>	<i>Maximum allowed:</i> 151,931 sq. ft. <i>Proposed:</i> 420,000 sq. ft.	<b>M</b>			
<b>Landscape</b>					
<b>Buffers (Sec. 5.6.2)</b>		<u>Adjacent Use/Zoning</u>	<u>Required</u>	<u>Proposed</u>	<b>M</b>
	<b>North</b>	Gas station; car wash	20 ft. Type C	6 ft. Modified	
	<b>South</b>	Single Family	10 ft. Type B	4 ft. - 10 ft. Modified	
	<b>East</b>	Single Family	10 ft. Type B	8 ft. - 10 ft. Modified	
	<b>West</b>	Barbee Chapel Road	15 ft. Type B	10 ft. - 15 ft. Modified	



<b>Tree Canopy (Sec. 5.7)</b>	<i>Minimum required:</i> 114,025 sq. ft. (30% of NLA) <i>Proposed:</i> Application will comply	<b>FP</b>
<b>Parking Landscape Standards (Sec. 5.9.6)</b>	Final Plans application must comply	<b>FP</b>
<b>Environment</b>		
<b>RCD Dimensional Standards (Sec. 3.6.3)</b>	<i>Impervious surfaces:</i> <i>Required:</i> 10% of Stream Side zone area, maximum <i>Proposed:</i> None <i>Land disturbance:</i> <i>Required:</i> 20% of Stream side zone area, maximum <i>Proposed:</i> Stream Side Zone: 3,500 sq. ft. (<20%)	
<b>Erosion Control (Sec. 5.3.1)</b>	Orange County Erosion Control permit required	<b>FP</b>
<b>Steep Slopes Land Disturbance (Sec. 5.3.2)</b>	No steep slopes land disturbance proposed	
<b>Stormwater Management (Sec. 5.4)</b>	Meet or exceed LUMO standards	<b>FP</b>
<b>Land Disturbance</b>	<i>Proposed:</i> 480,000 sq. ft.	
<b>Impervious Surface</b>	<i>Existing:</i> 1.69 acres (14.7%) <i>Maximum allowed:</i> 8.06 acres (70%) <i>Proposed:</i> 8.06 acres (70%)	
<b>Solid Waste &amp; Recycling (Sec. 5.13)</b>	Application must comply	<b>FP</b>
<b>Jordan Riparian Buffer (Sec. 5.18)</b>	Application must comply	<b>FP</b>
<b>Access &amp; Circulation</b>		
<b>Traffic Impact Analysis (Sec. 5.8)</b>	TIA completed	
<b>Road Improvements (Sec. 5.8)</b>	The developer proposes improvements to Barbee Chapel Road to accommodate additional vehicular access points.	<b>FP</b>
<b>Vehicular Access (Sec. 5.8)</b>	Two vehicular access points are proposed along Barbee Chapel Road: <ul style="list-style-type: none"> <li>The northern access point will be limited to right-in/right-out traffic.</li> <li>The southern access point will be full-access.</li> </ul> Several stub-outs on the site will facilitate future connections to adjacent development to the east and south.	<b>FP</b>
<b>Bicycle and Pedestrian Improvements (Sec. 5.8)</b>	The developer proposes a multi-modal trail along Barbee Chapel Road.	
<b>Transit Improvements (Sec. 5.8)</b>	None requested	<b>NA</b>

<b>Off-street Vehicular Parking (Sec. 5.9)</b>	<i>Minimum required:</i> 408 spaces <i>Maximum allowed:</i> 513 spaces <i>Total Proposed:</i> 495 spaces <ul style="list-style-type: none"> <li>• Surface Parking: 431 spaces</li> <li>• Garages: 16 spaces</li> <li>• Townhouse Parking: 48 spaces</li> </ul>	
<b>Bicycle Parking (Sec. 5.9)</b>	<i>Minimum required:</i> 88 spaces <i>Proposed:</i> Application must comply	<b>FP</b>
<b>Electric Vehicle Parking</b>	The developer proposes EV chargers to serve at least 5% of surface parking spaces. All townhome garages will include 220-volt outlets.	<b>C</b>
<b>Parking Design Standards (Sec. 5.9)</b>	Application must comply	<b>FP</b>
<b>Loading (Sec 5.9)</b>	Application must comply	<b>FP</b>
<b>Technical</b>		
<b>Fire</b>	Built to Town Standards	<b>FP</b>
<b>Recreation Area (Sec. 5.5)</b>	<i>Minimum required:</i> 25,071 sq. ft. <i>Proposed:</i> 25,750 sq. ft. on-site and potential off-site extension of multiuse path.  A payment based on 25% of the required recreation space will be provided if the off-site multiuse path extension is not constructed.	<b>C</b>
<b>Lighting Plan (Sec. 5.11)</b>	Built to Town Standards; not to exceed 0.3 footcandles at property line	<b>FP</b>
<b>Signage (Sec. 5.14)</b>	Built to Town Standards	<b>FP</b>
<b>Schools Adequate Public Facilities (Sec. 5.16)</b>	Application must comply	<b>FP</b>

## Project Summary Legend

Symbol	Meaning
	Meets Requirements
<b>M</b>	Seeking Modification
<b>C</b>	Requires Council Endorsement
<b>FP</b>	Required at Final Plans
<b>NA</b>	Not Applicable